

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CITIZENS FOR CLEAN AIR, a project of
ALASKA COMMUNITY ACTION ON
TOXICS; and SIERRA CLUB,

Plaintiffs,

v.

ANDREW WHEELER, in his official capacity as
Acting Administrator of the U.S. Environmental
Protection Agency; and CHRIS HLADICK, in
his official capacity as Regional Administrator of
the U.S. Environmental Protection Agency,
Region 10,

Defendants.

NO: 18-1803 TSZ

**DEFENDANT-INTERVENOR STATE
OF ALASKA'S ANSWER TO
PLAINTIFFS' COMPLAINT**

Defendant-Intervenor State of Alaska, as and for its Answer to the Plaintiffs' Complaint,
alleges and avers as follows.

INTRODUCTION

1. The assertions in Paragraph 1 of the Complaint describe Plaintiffs' claims, and
thus require no response.

2. The State admits the assertion in the first sentence of Paragraph 2. The remaining
assertions in Paragraph 2 characterize Federal Register notices and regulations that speak for

1 themselves and are the best evidence of their content. The State denies the assertions in
2 Paragraph 2 to the extent those assertions are inconsistent with the Federal Register notices and
3 regulations cited.

4 3. The assertion in Paragraph 3 characterizes a Federal Register notice that speaks
5 for itself and is the best evidence of its content. To the extent a response is required, the State
6 admits the assertion in Paragraph 3, but notes that EPA designated a only portion of the
7 Fairbanks North Star Borough (FNSB) as a nonattainment area with respect to the 2006 24-hour
8 National Ambient Air Quality Standards (“NAAQS”) for particles with an aerodynamic diameter
9 less than or equal to a nominal 2.5 micrometers (“PM-2.5”), not the entire Borough.
10 40 C.F.R. § 81.302.

11 4. The assertions in Paragraph 4 characterize data represented in Exhibit 1 to the
12 Complaint. Exhibit 1 to the Complaint speaks for itself and is the best evidence of its content.
13 The State denies the assertions in Paragraph 4 to the extent those assertions are inconsistent with
14 the data presented in Exhibit 1 to the Complaint.
15

16 5. The first sentence of Paragraph 5 states a legal conclusion to which no response is
17 required. With respect to the second sentence of Paragraph 5, the State admits that previous suits
18 have been filed in this Court relating to Clean Air Act deadlines for the FNSB nonattainment
19 area. However, whether EPA missed deadlines is, in part, a question of law to which no response
20 is required.

21 6. The assertions in the first and second sentences of Paragraph 6 state legal
22 conclusions to which no responses are required. With respect to the third sentence of Paragraph
23 6, the State admits that a Serious SIP has not yet been submitted to EPA. The assertions in
24 sentences four, five, and six of Paragraph 6 state legal conclusions to which no responses are
25

1 required. The assertion in the seventh sentence of Paragraph 6 states a legal conclusion to which
2 no response is required; to the extent a response is required, the State admits that EPA did not
3 issue a completeness finding by the date Plaintiffs filed the Complaint.

4 7. The assertions in Paragraph 7 state Plaintiffs' reasons for the current action, and
5 thus require no response.

6 **JURISDICTION**

7 8. The assertions in Paragraph 8 state legal conclusions and thus require no
8 response.

9 **NOTICE**

10 9. With respect to the first sentence of Paragraph 9, the State lacks knowledge or
11 information sufficient to form a belief about the truth of the assertions regarding the date that the
12 EPA received notice of the claim stated in this action. The State admits the assertion in the second
13 sentence of Paragraph 9.

14 **VENUE**

15 10. The assertions in Paragraph 10 state legal conclusions and thus require no
16 response.

17 **PARTIES**

18 11. The State lacks knowledge or information sufficient to form a belief about the
19 truth of the assertions in Paragraph 11.

20 12. The State lacks knowledge or information sufficient to form a belief about the
21 truth of the assertions in Paragraph 12.

22 13. The State lacks knowledge or information sufficient to form a belief about the
23 truth of the assertions in Paragraph 13.

as particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.

27. The assertions in Paragraph 27 characterize data represented in Exhibits 3 and 4 to the Complaint. The Exhibits speak for themselves and are the best evidence of their content. The State denies the assertions in Paragraph 27 to the extent those assertions are inconsistent with the data presented in Exhibits 3 and 4 to the Complaint.

28. The assertions in Paragraph 28 characterize Federal Register notices, which speak for themselves and are the best evidence of their content. The State denies the assertions in Paragraph 28 to the extent they are inconsistent with the Federal Register.

29. The assertions in Paragraph 29 characterize information in Exhibit 1 to the Complaint, which speaks for itself and is the best evidence of its content. The State denies the assertions in Paragraph 29 to the extent those assertions are inconsistent with the data presented in Exhibit 1 to the Complaint.

30. The assertions in Paragraph 30 characterize a Federal Register notice, which speaks for itself and is the best evidence of its content. The State denies the assertions in Paragraph 30 to the extent they are inconsistent with the Federal Register.

31. The assertions in Paragraph 31 characterize and quote a Federal Register notice, which speaks for itself and is the best evidence of its content. The State denies the assertions in Paragraph 31 to the extent the assertions are inconsistent with the Federal Register notice.

32. The assertions in Paragraph 32 characterize and quote the Clean Air Act, a Federal Register notice, and a judicial opinion, which speak for themselves and are the best evidence of their content. The State denies the assertions in Paragraph 32 to the extent the assertions are inconsistent with the Clean Air Act, the Federal Register notice, or the judicial opinion.

45. The assertion in Paragraph 45 states a legal conclusion to which no response is required.

46. The assertion in Paragraph 46 states a legal conclusion to which no response is required.

47. The assertion in Paragraph 47 states a legal conclusion to which no response is required.

48. The assertion in Paragraph 48 is a prayer for relief to which no response is required. To the extent a response is required, the State denies that Plaintiffs are entitled to such relief.

49. The assertion in Paragraph 49 is a prayer for relief to which no response is required. To the extent a response is required, the State denies that Plaintiffs are entitled to such relief.

50. The assertion in Paragraph 50 is a prayer for relief to which no response is required. To the extent a response is required, the State denies that Plaintiffs are entitled to such relief.

51. The assertion in Paragraph 51 is a prayer for relief to which no response is required. To the extent a response is required, the State denies that Plaintiffs are entitled to such relief.

52. The assertion in Paragraph 52 is a prayer for relief to which no response is required. To the extent a response is required, the State denies that Plaintiffs are entitled to such

1 relief.

2 **GENERAL DENIAL**

3 The State of Alaska denies any allegation in the Complaint not specifically admitted
4 herein.

5 **DEFENSES**

6 The Plaintiffs have failed to state a claim for which relief may be granted.

7 **RESERVATION OF RIGHTS**

8 The State of Alaska reserves the right to seek to amend its Answer, including the addition
9 of defenses, as additional information is obtained through further investigation or discovery.

10 DATED this 26th day of July, 2019.

11 GASPICH LAW OFFICE PLLC

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18 State of Alaska

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CERTIFICATE OF SERVICE

I hereby certify that on July 26, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF, which will send notification of such filing to the Court's electronic mailing list recipients as follows:

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There are no manual recipients listed.

DATE: July 26, 2019.

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